


FILED IN CLERK'S OFFICE  
U.S.D.C. - Atlanta

APR 21 2025

KEVIN P. WEIMER, Clerk  
By:  Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

NATALIE SOTO,

Plaintiff,

v.

WENDELL HOLMES, JR.,

Defendant.

Civil Action No. 1:24-cv-02911-SDG

**DEFENDANT'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION  
TO DISMISS DEFENDANT'S AMENDED COUNTERCLAIM**

**I. STANDARD OF REVIEW**

A motion to dismiss under Rule 12(b)(6) tests the sufficiency of the complaint. Under Twombly and Iqbal, a claim must contain factual allegations sufficient to state a plausible claim for relief. Pro se filings are construed liberally.

**II. ARGUMENT**

**A. Count I – Malicious Prosecution**

The Amended Counterclaim alleges favorable termination of criminal proceedings, lack of probable cause, malice, and resulting damage. These elements are sufficiently pled and must survive a 12(b)(6) challenge.

**B. Count II – Intentional Infliction of Emotional Distress**

Holmes alleges extreme and outrageous conduct through public shaming, employer interference, and family harassment, causing severe emotional distress, meeting Georgia's IIED standard.

**C. Count III – Defamation**

Specific false statements are identified (e.g., "If you see this man, run"), published to third parties, false, and causing reputational and financial harm, satisfying Georgia's defamation elements.

**D. Count IV – Abuse of Process**

Holmes alleges misuse of the protective order and criminal complaint for retaliatory purposes, with malice and lack of justification, supporting a statutory abusive litigation claim under O.C.G.A. §51-7-80 et seq.

**III. CONCLUSION**

For these reasons, Defendant respectfully requests that the Court DENY Plaintiff's Motion to Dismiss Defendant's Amended Counterclaim [Doc. 52] in its entirety.

Respectfully submitted this 21st day of April, 2025.



Wendell Holmes, Jr.

Pro Se Defendant

5934 Rosie LN SE

Mableton, GA 30126

Wendellholmesjr@gmail.com

(404) 664-2943

**CERTIFICATE OF SERVICE**

**I hereby certify that on this 21st day of April, 2025, I served this Response via email to:**

**Joseph W. Weeks**

**McNally Weeks**

**125 Clairemont Ave., Ste. 450**

**Decatur, GA 30030-2560**

**jweeks@mcnallyweeks.com**